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MARKET ENTRY BARRIERS TO SMALL BUSINESS
GN Docket No. 96-113**

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Introduction

Let me begin by congratulating the General Counsel's Office and the Office of Communications Business Opportunities for organizing this public forum on market entry barriers for small businesses in the telecommunications industry.

Today's forum is more evidence of the Commission's greater commitment to small business in recent months. The Commission has almost doubled the resources of the OCBO and has given it a prominent role in the FCC's Regulatory Flexibility Compliance efforts. The OCBO plays a vital role within the Commission as the voice of small business and deserves all our commendation.

Today's forum is a significant step forward for the Market Entry Barriers proceeding. It will help to give the necessary high profile to the Market Entry Barriers proceeding here at the Commission. I look forward to the testimony this afternoon from the small business witnesses will put a spotlight on the areas of greatest need.

The Role of Section 257

With the passage of the 1996 Act, Congress began the process of unlocking the doors of many monopoly markets. The Act lays the foundation for an entire new set of rules that will allow competitors to enter and compete in these markets.

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Section 257 simply applies the overall intent of the 1996 Act specifically to small businesses. The purpose of Section 257 is manifestly simple: identify and eliminate market entry barriers for small businesses. This unmistakable mandate is the sole and sufficient measure of the Commission's success in this docket.

The Scope of Section 257

Both the language and the intent of Section 257 mandate a very broad scope for this proceeding. It is designed to be broad and all-encompassing. Clearly, Congress intended a broad inquiry and equally broad remedial action. It is almost an open-ended mandate. The statute places virtually no restriction on the Commission's discretion.

Section 257 does not define or limit the term "market entry barriers." No type of barrier is off-limits. The NOI makes a good beginning in listing a number of issues that typically plague small businesses – particularly access to capital issues. But at best, many of these problems are susceptible to amelioration, rarely elimination. The SBA/Advocacy recommends the Commission address these as aggressively as possible. But it should not lose sight of the types of barriers that the Commission can change or eliminate with a stroke of a word processor – its own regulations. This proceeding must not just eliminate market barriers in the marketplace. It must also eliminate such barriers in the Commission's own rules.

Systemic vs. Service-Specific Barriers

Market entry barriers that are created by the Commission's own rules fall into two categories: systemic barriers and service specific barriers. Both types of barriers need to be addressed.

Systemic barriers are barriers that affect small businesses across a number of industries. The Commission's various complaint procedures are an example of rules that, while on their face seem neutral, in their application tend to keep small complainants from competing with larger companies. The Commission has begun to reexamine its complaint procedures in certain areas to fulfill various mandates of the 1996 Act but a more comprehensive overhaul is necessary -- and should be part of this proceeding.

Service-specific barriers must also be addressed. Commenters have already focused on a number of these and we will hear about more today. This may appear to be a Herculean task but it is one that must be undertaken.... one barrier at a time. If this is not at least attempted, there will be little to show for this docket. If it is, it will all be worthwhile.

In practice, there is not a single bureau that could not profitably examine its rules for such barriers. There is not a single bureau that could say with a straight face that its rules contain no such barriers. Small businesses in each industry are more than ready to help in such a search. If each Bureau undertook such a self-examination, this docket would be an unqualified success. The Office of Advocacy strongly encourages this or a similar initiative in this docket.

Gender and Racial Barriers

Beyond all these barriers, women and minorities face an entirely different set of market entry barriers that result in a disproportionately low rate of ownership and participation in virtually every communications field. Section 257 clearly calls for steps to improve the “diversity of media voices”.

The Commission has tackled gender- and race-based barriers head-on in its NOI and the Office of Advocacy strongly encourages the Commission to take concrete steps to improve women and minorities’ opportunities in this industry. This is one area where eliminating market barriers may be more important than eliminating rules that create barriers. Improving access to capital for these firms may be the most important single step the Commission could take. Such steps would be consistent with the SBA’s longstanding efforts to improve minorities and women’s access to capital in all industries.

Conclusion

What’s the payoff for all this effort? The statute is clear. Eliminating market entry barriers to small businesses will:

1. encourage the diversity of media voices
2. stimulate competition
3. foster technological advances, and ultimately lower prices to end users.

Small businesses have traditionally generated a disproportionate share of innovation and job creation. By knocking down barriers in the marketplace and at the Commission, the Commission can do much to achieve these statutory goals.

In order to successfully discharge this mandate, one thing more than anything else is needed: A willingness to take on larger business interests who have never welcomed competition from small businesses. A willingness to challenge market inequities that have been in place for a long time.

For the Commission to succeed in this, it must also have the support of the small business community as a whole and the support of sister agencies such as the SBA, the Department of Commerce, and the Justice Department.

This is an unusual and important opportunity for the Commission to create opportunity and greater competition in the telecommunications field. It is worth every bit of effort the Commission can devote to it. The Office of Advocacy pledges to work on an on-going basis to assist in any way to make this proceeding the success it needs to be and can be.